

AMENDING THE COMMUNICATIONS ACT OF 1934 WITH RESPECT TO  
THE GRANTING OF RADIO LICENSES IN THE SAFETY AND SPECIAL  
AND EXPERIMENTAL RADIO SERVICES TO ALIENS

OCTOBER 3, 1974.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign  
Commerce, submitted the following

REPORT

[To accompany S. 2457]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 2457) to amend the Communications Act of 1934, as amended, to permit the Federal Communications Commission to grant radio station licenses in the safety and special and experimental radio services directly to aliens, representatives of aliens, foreign corporations, or domestic corporations with alien officers, directors, or stockholders; and to permit aliens holding such radio station licenses to be licensed as operators, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

SUMMARY OF LEGISLATION

S. 2457 amends section 310 of the Communications Act of 1934 (hereinafter the "Act") to permit the Federal Communications Commission to grant aliens and corporations with alien officers, directors, or stockholders radio station licenses in the Safety and Special, and Experimental, Radio Services.

Section 303 of the act is amended to authorize aliens entitled to hold a station license to receive licenses to operate these stations. The bill does not alter the current prohibition against licensing aliens in the broadcast or common carrier radio services.

The legislation also eliminates the provisions of existing law which require the FCC to make an intragovernment security check with respect to aliens who seek permission to operate amateur radio stations in the United States pursuant to existing bilateral agreements which grant similar privileges to United States citizens on a reciprocal basis. The FCC has followed this procedure for ten years and has found it cumbersome, timeconsuming, and unnecessary. The Commission will

continue to have the flexibility necessary to deny any alien application for such a radio license which it determines to be contrary to the public interest.

#### NEED FOR LEGISLATION

Section 310(a) of the Communications Act contains a general prohibition against the grant of radio station licenses to aliens, representatives of aliens, foreign corporations, or domestic corporations with alien officers, directors, or stockholders. However, such corporations may be indirectly licensed through subsidiary corporations which have no alien officers or directors and thereby receive all the benefits of radio service. The FCC advises that in the period January 1, 1970 through June 30, 1974, the Commission authorized 253 subsidiary corporations to hold such licenses. The list of parent companies involved includes many from among the nation's leading corporations. S. 2457 would amend section 310 to authorize direct licensing of aliens or entities which alien interests in the Safety and Special and Experimental Radio Services and thereby eliminates this costly and unnecessary device.

Present law works an inequity upon small corporations which are without the resources and skills necessary to establish subsidiary corporations, and upon partnerships or individual entrepreneurs to whom this option is unavailable. Because the need for a radio license should not depend upon the size or form of an organization, it is felt that direct licensing of aliens in these services is preferable to the current statutory scheme.

This legislation is designed to provide relief to those persons who use radio services as an incident to their business, namely, railroads, taxicabs, manufacturers, oil producers and distributors, utility companies, pipelines, truckers, construction companies, the mining industry, the forestry industry, consumer service companies, retailers, farmers, ranchers, and all the marine industry.

Similarly, there are significant reasons for authorizing aliens to hold licenses to operate radios in the safety and special radio services not related to industry. In the aviation and marine services, for instance, the underlying need for radio is safety to the operator of the service and to the general public, a need which is present regardless of citizenship. Also, licenses in the citizens radio service can be of significant value to the public safety, and should also be made available to aliens.

The legislation also amends the Act to permit aliens holding station licenses to receive licenses to operate those stations. Although most radio stations in the Safety and Special Radio Services require only a station license, several services, namely ship and aircraft stations, require operator's licenses as well. To permit an alien to hold a station license but not an operator's license would thwart the purpose of this legislation. Under the legislation, aliens not holding station licenses would be ineligible to receive operator's licenses.

This legislation states clearly that aliens and corporations with alien officers, directors, or stockholders are proscribed from obtaining licenses in the broadcast or common carrier radio services. For purposes of this legislation, the FCC will consider public coast stations which interconnect ship communications with land based common

carrier communications systems, as common carriers, and therefore not available to aliens.

This legislation is designed to conform to the legislative history of subsection 310(a) which was intended to prevent alien control of commercial communications systems, particularly in the broadcast and common carrier fields. The businesses affected by this bill are not commercial communications systems which were the focus of subsection 310(a), nor does private use of radio incidental to carrying on a business enterprise pose any threat of foreign control of our communications systems.

S. 2457 also deletes the provisions of section 303 and 310 of the Act which require the FCC to conduct intra-agency security checks on aliens who apply for permission to operate amateur radio stations in the United States under the terms of bilateral agreements extending reciprocal privileges to U.S. citizens.

The amateur service provides a voluntary noncommercial communications service fostering technical contributions to the state of the art and international goodwill, and has proved invaluable during emergencies. Under subsection 310(a), alien amateurs have been permitted to operate their stations in this country under reciprocal agreements since 1964. These agreements generally permit aliens to operate without examination. This legislation retains the reciprocal authorization arrangement so that examinations will remain unnecessary. It is felt that to require license examinations of aliens would create language difficulties which might make licensing impossible for some. This could result in reciprocal action taken by affected foreign governments against United States citizens. Under the provisions of this legislation, an alien could either seek authority to operate under the reciprocity agreements or as a regular applicant. Aliens from nations with which the United States has no reciprocity would be required to apply for a license in the regular manner.

Your committee is satisfied that the use by aliens of radios in the Safety and Special Experimental Radio Services will not raise security problems. With the exception of ship, certain coast, amateur, and aeronautical land stations, radio stations in the Safety and Special Radio Services are limited to relatively short-range communications. Most frequencies available to these services are shared with other licensees and there is little, if any, secrecy afforded to users. Thus, it seems unlikely that anyone would attempt to use such frequencies to breach the national security.

Furthermore, procedures followed by the Federal Government prior to the issuance of visas are designed to bar from entrance into this country those persons who pose a threat to our security. Accordingly, this legislation deletes the current requirement that the Commission notify appropriate agencies of the Federal Government upon receipt of applications for authorization to operate amateur radio so that they may comment with respect to national security matters. The Commission, after 10 years of experience with these procedures, has stated that they are cumbersome and unnecessary. The Commission retains the authority, however, to deny any license application under the public interest mandate of the Communications Act. The bill specifically prohibits the licensing of aliens to operate "aeronautical enroute" or "aeronautical fixed" radio stations because of possible security problems.

## COMMITTEE ACTION

Hearings were held on S. 2457 by your committee, acting through its Subcommittee on Communications and Power, on September 19, 1974. Richard E. Wiley, Chairman of the Federal Communications Commission, testified in support of the legislation. No one appeared in opposition to the legislation.

S. 2457 was reported from the subcommittee and the full committee by unanimous voice votes.

## CONCLUSION

Your committee believes that passage of S. 2457 is consistent with both congressional policy and the demands of national security and will serve the public interest. It will have the effect of eliminating needless expense to certain corporations and other entities resulting from the prohibition against alien ownership of licensees. Furthermore, it would extend the use of radio for safety purposes to aliens. Finally, this legislation will eliminate needless and time consuming clearance procedures now required before alien amateurs may operate under the authority of bilateral agreements.

## COST

Enactment of this legislation will result in no additional cost to the Federal Government.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

## COMMUNICATIONS ACT OF 1934

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## TITLE III—PROVISIONS RELATING TO RADIO

## PART I—GENERAL PROVISIONS

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## GENERAL POWERS OF THE COMMISSION

SEC. 303. Except as otherwise provided in this Act, the Commission from time to time, as public convenience, interest, or necessity requires shall—

(a) \* \* \*

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(1)(1) Have authority to prescribe the qualifications of station operators, to classify them according to the duties to be performed, to fix the forms of such licenses, and to issue them to such citizens or nationals of the United States, or citizens of the Trust Territory of

the Pacific Islands presenting valid identity certificates issued by the High Commissioner of such Territory as the Commission finds qualified, except that in issuing licenses for the operation of radio stations on aircraft the Commission may, if it finds that the public interest will be served thereby, waive the requirement of citizenship in the case of persons holding United States pilot certificates or in the case of persons holding foreign aircraft pilot certificates which are valid in the United States on the basis of reciprocal agreements entered into with foreign governments;

【(2) Notwithstanding section 301 of this Act and paragraph (1) of this subsection, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators: *Provided*, That when an application for an authorization is received by the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: *And provided further*, That the requested authorization may be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

【(3) Notwithstanding paragraph (1) of this subsection, the Commission may issue licenses for the operation of amateur radio stations to aliens admitted to the United States for permanent residence who have filed under section 334(f) of the Immigration and Nationality Act (8 U.S.C. 1445(f)) a declaration of intention to become a citizen of the United States: *Provided*, That when an application for a license is received by the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: *And provided further*, That the requested license may then be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such license.】

(2) *Notwithstanding paragraph (1) of this subsection, an individual to whom a radio station is licensed under the provisions of this Act may be issued an operator's license to operate that station.*

(3) *In addition to amateur operator licenses which the Commission may issue to aliens pursuant to paragraph (2) of this subsection, and notwithstanding section 301 of this Act and paragraph (1) of this subsection, the Commission may issue authorizations, under such con-*

*ditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.*

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#### LIMITATION ON HOLDING AND TRANSFER OF LICENSES

**[**SEC. 310. (a) The station license required hereby shall not be granted to or held by—

**[**(1) Any alien or the representative of any alien;

**[**(2) Any foreign government or the representative thereof;

**[**(3) Any corporation organized under the laws of any foreign government;

**[**(4) Any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country;

**[**(5) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted after June 1, 1935, by aliens, their representative, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or the revocation of such license.

**[**Nothing in this subsection shall prevent the licensing of radio apparatus on board any vessel, aircraft, or other mobile station of the United States when the installation and use of such apparatus is required by Act of Congress or any treaty to which the United States is a party.

**[**Notwithstanding paragraph (1) of this subsection, a license for a radio station on an aircraft may be granted to and held by a person who is an alien or a representative of an alien if such person holds a United States pilot certificate or a foreign aircraft pilot certificate which is valid in the United States on the basis of reciprocal agreements entered into with foreign governments.

**[**Notwithstanding section 301 of this Act and paragraphs (1) and (2) of this subsection, the Commission may issue authorization, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States

and the alien's government for such operation on a reciprocal basis by United States amateur radio operators: *Provided*, That when an application for an authorization is received by the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: *And provided further*, That the requested authorization may then be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

【Notwithstanding paragraph (1) of this subsection, a license for an amateur radio station may be granted to and held by an alien admitted to the United States for permanent residence who has filed under section 334(f) of the Immigration and Nationality Act (8 U.S.C. 1445 (f)) a declaration of intention to become a citizen of the United States: *Provided*, That when an application for a license is received by the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: *And provided further*, That the requested license may then be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such license.】

*Sec. 310. (a) The station license required under this Act shall not be granted to or held by any foreign government or the representative thereof.*

*(b) No broadcast or common carrier or aeronautical en route or aeronautical fixed radio station license shall be granted to or held by—*

*(1) any alien or the representative of any alien;*

*(2) any corporation organized under the laws of any foreign government;*

*(3) any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country;*

*(4) any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.*

*(c) In addition to amateur station licenses which the Commission may issue to aliens pursuant to this Act, the Commission may issue*

*authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.*

**[b]** (d) No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby. Any such application shall be disposed of as if the proposed transferee or assignee were making application under section 308 for the permit or license in question; but in acting thereon the Commission may not consider whether the public interest, convenience, and necessity might be served by the transfer, assignment, or disposal of the permit or license to a person other than the proposed transferee or assignee.

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